IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

TUESDAY, THE TWENTY SIXTH DAY OF APRIL
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MRS. JUSTICE T.MEENA KUMARI

&
THE HON'BLE MR. JUSTICE L.NARASIMHA REDDY

WRIT APPEAL NO : 871 of 2005

(Writ Appeal under Clause 15 of the Letters Patent against the Order dated 10/12/2004 in WP NO: 20045 OF 2004 on the file of the High Court.)

Between:

1 Union of India, Ministry of Defence, rep. by its Secretary at New Delhi.
2 The Director General, Medical Services (Army), Adjutant General's Branch, Army Headquarters, 'L' Block, New Delhi.

APPELLANTS

AND

Major M.J.Naidu, S/o Late M.B.Naidu, Occupation: AMC Officer,

aged 55 years, R/o Sainikpuri, Secunderabad.

RESPONDENT

Counsel for the Appellants: MR.A.RAJASHEKAR REDDY (ASST.SOLICITOR GEN.)

Counsel for the Respondent No.: MR.N.SRIDHAR REDDY

The Court made the following:

JUDGMENT : (Per the honourable Sri Justice L.Narasimha Reddy)

The Union of India, Ministry of Defence, preferred this appeal against the order of the learned single Judge in W.P.NO.20045 of 2004, dated 10-12-2004.

The Writ petition was filed by the respondent. The respondent is working as a Commissioned Officer in the Army Medical Corps from 1985 onwards. He worked at various places and at his request, he was posted at the Military Hospital, Secunderabad on 08-12-2002. For this purpose, this facility was extended to him on his exercising the right to seek compassionate posting, which is available to such officers once in their career. The respondent challenged the order dated 05-7-2004 where under he was posted to 454 FD AMB (Field Ambulance) Unit at Secunderabad. He alleged that he has only less than two years of service left over and that the transfer was made even before the expiry of two years period from the date of his joining the new station. It was also urged that though the transfer is to the Unit at Secunderabad itself, it is proved to be shifted on account of the mobile nature of the Unit.

The appellants filed counter disputing the contentions of the respondent. According to them, necessity to transfer the respondent arose on account of occurrence of the vacancy in the Ambulance Unit. The contention of the respondent based on the alleged transfer policy was also disputed.

On a consideration of the rival contentions, the learned single Judge took a view that the very purpose of the petitioner exercising the option of availing the compassionate posting was to remain at Ambulance Unit, Secunderabad for a period of two years and the impugned transfer has the effect of rendering him to be shifted from place to place. Placing reliance on the policy formulated by the appellants on 24-12-1990, the learned single Judge set aside the order of the transfer and allowed the petition.

Mr. A.Rajasekhar Reddy, the learned counsel for the appellants submits that there is nothing like a transfer policy in the Military establishment and the proceedings dated 24-12-1990 were issued only to provide guidelines in the matter of posting and appointing various officers particularly with reference to their tenures. He submits that it is not mandatory that any officer shall be retained at any particular station for a definite period and the transfer, particularly in the military staff would depend upon the exigency of service.

Mr. N. Sridhar Reddy, learned counsel for the respondent, on the other hand, submits that even before the expiry of two years, from the date of the compassionate transfer, the

respondent was shifted to different unit and thereby, the appellants have violated the very norms formulated by them in the in the proceedings dated 24-12-1990.

Interference by the Courts with the matter of orders of transfer, is almost a rare phenomenon in civil establishments. The transfers are mostly guided by the policies, which provide for retention of employees at a particular place up to a definite duration. Even if such establishments, mostly the guidelines are directory in nature and cannot be treated as mandatory. The situation that prevails in establishments and paramilitary organizations, is much more equidistant. The transfers of officers or employees of various categories of employees in such establishments, would depend upon exigencies and need of service. It is true that even in such establishments, the endeavor would be to ensure that no officer is shifted unnecessarily at least for a particular duration. The guidelines issued in this regard, cannot be treated as either mandatory or biding in the matter of transfer. Except where the effected officer or employee pleads any ground of mala fide or victimization, Courts leave the maximum latitude to the administration in the matter of postings and transfers, otherwise it would be difficult to ensure discipline in such organizations.

Reverting to the facts of the case, it is evident that it is at the instance of the 1st appellant, the respondent was posted at Secunderabad with effect from 12-6-2003. His expectation that he shall be retained at that station for a period of two years in the context of the proceedings dated 19-5-1990, cannot be said to be without basis. At the same time, the question as to whether such shifting from that place even before the expiry of that period, cannot be subject to any restrictions and it should be left to the ultimate discretion of the concerned authorities. Once this position is conceded, it cannot be said that the order of posting the respondent to a different place, is vitiated in any manner. The respondent, himself does not claim any legal right even in a particular place.

By virtue of the interim orders passed in the writ petition, it so happened, the respondent had completed almost the entire two years. The limited grievance canvassed by him in the writ petition, stands redressed. In that view of the order, it is open to the appellants to pass appropriate orders afresh posting or transferring the respondent to any place depending on the exigency. A reference was made with regard to the administrative exigency in a judgment of this Court reported in SERGEANT JENA JK V. UNION OF INDIA AND OTHERS ().

Accordingly, we set aside the order of the learned single judge and dispose of the appeal as narrated above.

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Justice T.Meena Kumari

Date: 26th April,2005.

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Justice L. Narasimha Reddy

Dvs/Gurc

Copies to:

1 The Secretary, Union of India, Ministry of Defence, New Delhi.
2 The Director General, Medical Services (Army), Adjutant General's Branch, Army Headquarters, 'L' Block, New Delhi.

3. Two CDs.

HONOURABLE SMT JUSTICE T.MEENA KUMARI

&

HONOURABLE SRI JUSTICE L.NARASIMHA REDDY

W.A.No.871 OF 2005

(Judgment delivered by the

honourable Sri Justice L.Narasimha Reddy)

26th April, 2005